

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

SHERRY ERRICKSON,

Case No. 20-cv-1076

Plaintiff,

vs.

ENHANCED RECOVERY COMPANY,
LLC,

Defendant.

COMPLAINT

NOW COMES Plaintiff Sherry Errickson, by and through her attorney, Nathan DeLadurantey of DeLadurantey Law Office, LLC and complains of Defendant Enhanced Recovery Company, LLC, and alleges to the best of her knowledge, information and belief formed after an inquiry reasonable under the circumstances, the following:

INTRODUCTION

1. This lawsuit arises from the illegal collection attempts of Defendant.
2. Causes of Action herein are brought under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”) and the Wisconsin Consumer Act (“WCA”), Wis. Stat. § 421 *et seq.*

JURISDICTION AND VENUE

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331, because the case arises under the laws of the United States.

4. This Court also has jurisdiction under 15 U.S.C. § 1692 as it is an action to enforce liability created by the FDCPA within one year from the date on which the violation occurred.

5. Venue in this Court is appropriate pursuant to 28 U.S.C. § 1391(b)(2), because this is where the acts giving rise to the claim occurred.

6. Under 28 U.S.C. § 1391(c), a defendant corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction. Defendant is subject to personal jurisdiction in Wisconsin, since they do business in Wisconsin.

PARTIES

7. Plaintiff Sherry Errickson (hereinafter “Plaintiff”) is a natural person who resides in the County of Dodge, State of Wisconsin.

8. Plaintiff is a “consumer” as defined by 15 U.S.C. §1962a(3).

9. Defendant Enhanced Recovery Company, LLC (“Defendant”) is a company with a principal office address at 8014 Bayberry Rd., Jacksonville, FL 32256. Defendant’s registered agent is Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301.

10. Defendant is a “debt collector” pursuant to 15 U.S.C. § 1692a(6).

11. Defendant is a “debt collector” pursuant to Wis. Stat. § 427.103(3).

BACKGROUND

12. On August 3, 2020, Plaintiff filed a State of Wisconsin Chapter 128 Amortization of Debts (Dodge County Case No. 2020CV300).

13. Included in that Chapter 128 was a debt owed to Defendant Enhanced Recovery Company, LLC.

14. This debt was for less than \$25,000 and was incurred for family, personal, or household purposes.

15. Defendant received notice of the Chapter 128 filing.

16. The notice received by Defendant indicated that Plaintiff was represented by an attorney in connection with the debt owed to Defendant.

17. On November 23, 2020, Defendant sent a debt collection letter to Plaintiff, related to an alleged debt incurred for family, personal, or household purposes.

18. Defendant against communicated directly with Plaintiff on or about November 23, 2020, in the form of a collection letter.

19. Defendant had actual and/or constructive knowledge of Plaintiff's Chapter 128 and her representation by an attorney.

COUNT 1 – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

20. Plaintiff incorporates by reference all of the above-paragraphs of this Complaint as though fully stated herein.

21. Plaintiff is a consumer as defined by 15 U.S.C. §1692a(3).

22. The foregoing acts of the Defendant and its agents constitutes violation of the FDCPA including, but not limited to, 15 U.S.C. § 1692c(a)(2) with respect to Plaintiff.

23. Specifically, under 15 U.S.C. § 1692c(a)(2) a debt collector cannot communicate directly with a consumer when they know the consumer is represented by a lawyer, which Defendant did.

24. Plaintiff has suffered actual damages as a result of these illegal collection communications, as stated above.

25. Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

COUNT 2 – VIOLATIONS OF THE WISCONSIN CONSUMER ACT

26. Plaintiff incorporates by reference all the foregoing paragraphs.

27. Wis. Stat. § 427.104(1)(h) provides, in pertinent part: “In attempting to collect an alleged debt arising from a consumer credit transaction or other consumer transaction...a debt collector may not: (h) Engage in other conduct which can reasonably be expected to threaten or harass the customer or a person related to the customer.”

28. Defendant violated Wis. Stat. § 427.104(1)(h) when Defendant engaged in the above referenced collection attempts.

29. Wis. Stat. § 427.104(1)(i) provides, in pertinent part: “In attempting to collect an alleged debt arising from a consumer credit transaction or other consumer transaction...a debt collector may not: (i) Use obscene or threatening language in communicating with the customer...”

30. Defendant violated Wis. Stat. § 427.104(1)(i) when Defendant engaged in the above referenced collection attempts.

31. Plaintiff suffered actual damages as result of Defendant’s violations of Wis. Stat. § 427.104(1)(h) and Wis. Stat. § 427.104(1)(j).

32. Plaintiff is entitled to all of the remedies identified in Wis. Stat. § 427.105 and Wis. Stat. § 425.304.

TRIAL BY JURY

Plaintiff is entitled to, and hereby respectfully demands a trial by jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Court will enter judgment against Defendant as follows:

A. Actual damages in an amount to be determined at trial pursuant to 15 U.S.C. § 1692k(a)(1);

- B. Statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- C. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3);
- D. For an award of actual damages, statutory damages, punitive damages (if the evidence at trial so warrants), actual costs, and attorneys' fees, under Wis. Stats. §§ 427.105 and 425.304; and
- E. For such other and further relief as may be just and proper.

Dated this 2nd day of December, 2020.

s/ Nathan E. DeLadurantey

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